

Otay River Watershed Special Area Management Plan workshop

March 27, 2008

**John Lippett Public Works Department
1800 Maxwell Road**

Judith Keir - Imperial Beach
Todd Snyder - County of San Diego
Thomas Oberbauer - County of San Diego
Victoria Touchstone - U. S. Fish and Wildlife Service
Jack Bransford - Fish and Wildlife Advisory Commission
Wayne Dickey - OVRP
Patrick Atchison - TAIC
Shawn Zovod - Ebbin Moser and Skaggs
Michelle Mattson - Aspen Environmental
Jae Chung - U.S. Army Corps of Engineers
Laurie Monarres - U.S. Army Corps of Engineers
Christina Arias - Regional Water Quality Control Board
Khosro Aminpour - City of Chula Vista
Josie McNeeley - City of Chula Vista
Theresa Acerro - Resident Chula Vista
Mike McCoy - Southwest Wetlands Interpretive Association
Jim Peugh - San Diego Audubon

Tom Oberbauer made introductions and all present introduced themselves.

Tom Oberbauer gave brief overview of why the County is interested in preparing a Special Area Management Plan. Under the Multiple Species Conservation Program, the authority to approve land development permits that may take habitat in lower value areas was transferred to the County through an Implementation Agreement and a plan. Furthermore, under the MSCP, mitigation is coordinated to assemble a preserve rather than providing small, unorganized and often isolated, postage stamp open space easements. In addition, since the MSCP was approved a large amount of land, more than 30,000 acres, has been acquired.

The intention of the SAMP is to provide many of the benefits of the MSCP to wetland habitats by streamlining permits, better permit coordination, transfer of various levels of authority to local jurisdictions and coordinate impacts and mitigation to assemble wetland conservation areas.

The difference between a SAMP and Watershed Management Plan is that the Watershed Management Plan was a means to gather data and present options and guidelines with

community input. The SAMP is intended to provide more regulatory authority and apply the watershed and wetland concepts to guide obtaining actual permits.

The intent is that the working group provide input to the County process, review material that is generated, and meet periodically for discussion and input on pertinent items.

Shawn Zovod from Ebbin Moser and Skaggs presented a broad view of the purposes of a SAMP to preserve and enhance existing aquatic resources in the Otay River Watershed, accommodate development and other economic activities through a streamlined, programmatic permitting process under section 404 of the Clean Water Act, coordinate among resource agencies and regulatory programs, including those related to aquatic resources, endangered species, and water quality, and where appropriate acquire land and conservation easements to advance the preservation of important resources. In addition, the SAMP is intended to achieve the goals and requirements of the regional Municipal Stormwater Permit.

Jae Chung gave a presentation on the perspective of the Army Corps of Engineers.

The limitations of the existing process include the following: Acres of impact are not indicative of severity of impact; the process is reactive rather than proactive for conserving habitats. The current process overlooks landscape and watershed effects, lacks regional restoration and management goals and does not address cumulative impacts to aquatic resources.

Watershed planning and mitigation serves as a solution. The current regulatory approach based on series of individual permit review needs improvements that often occur in an unorganized manner.

Regulated community desires include predictability in outcome and mitigation and minimization of delays. The environmental community desires include better protection of aquatic resources and more effective compensatory mitigation. Overall a watershed approach to assessing impacts and mitigation allows for more intelligent regulatory decision making for permits and mitigation.

Authority for the use of a Special Area Management Plan can be found under the Coastal Zone Management Act of 1980 (16 USC 1453(17)) which defines concept of a Special Area Management Plan (SAMP). It is included in the Army Corps of Engineers Corps Regulatory Guidance in 1986, 1992, & 2005.

When to do a SAMP (2005 Guidance)
Sensitive areas under development pressure
Presence of a sponsoring local agency
Public involvement in planning & development
Agreement to produce regulatory product

Products of a SAMP (2005 Guidance)

Abbreviated Corps permitting process and local/state approvals in defined situations
Restrictions for undesirable activities
Pre-planned and coordinated conservation of wetlands

In the SAMP planning process there is a need to identify high quality aquatic resources. It is based on ecosystem integrity.

The following are the basic tenets of a SAMP

- No net loss of acreage & functions of waters of the US
- Maintain/restore hydrologic, water quality, & habitat integrity
- Protect headwaters areas
- Maintain/protect/restore diverse & continuous riparian corridors
- Maintain or restore floodplain connection
- Maintain and/or restore sediment transport equilibrium
- Maintain adequate buffer for protected riparian corridors
- Protect riparian areas and associated habitats supporting sensitive species and their habitat

Under current Section 404 permitting Nationwide General Permits can be given. They are generally issued for fills that are less than half an acre and with verification are issued for 60 days.

Standard Individual Permits are also issued for fills greater than half an acre in size. These involve public notice and environmental assessment and are issued within 120 days.

Current mitigation approach is to resort to on-site mitigation with a lack of off-site options.

Under SAMP, 404 permitting is directed to areas with low aquatic ecosystem integrity with a streamlined review process while at the same time, permits would be limited from being processed in areas with high aquatic ecosystem integrity.

Under SAMP, future mitigation approach would be address ecological needs at the watershed level in a coordinated fashion with predefined options that may be on site or off site.

The process involves full public input based on science and is intended to create win-win solutions involving reasonable economic development and environmental protection and to be perceived as gains by all participants.

Overall, the SAMP is complementary to the Watershed Management plan that was approved for the Otay Watershed two years ago.

Michelle Mattson from Aspen Environmental presented information on the physical and geographic characteristics of the watershed.

It consists of 93,000 acres (145 sq mi). Within the watershed, the population, and area affected by housing and workplaces are expected to double by 2030. A large percentage of the Watershed has been preserved under the MSCP program so that development is planned mostly west of the Otay Reservoir. Preserved land includes National Wildlife refuge, California Department of Fish and Game, the County, Bureau of Land Management, United States Forest Service and the Otay Valley Regional Park.

Comparing the Watershed Management Plan to the SAMP, the Otay Watershed Management Plan includes Watershed Management Strategies that identify goals and identify and evaluate problems & devise solutions.

In contrast, the SAMP is a comprehensive aquatic resource regulation and planning effort that balances the protection, restoration, and management of aquatic resources with land uses and serves as the foundation for permit streamlining. A SAMP also utilizes baseline studies and strategies identified in WMP.

There are a number of components from the Watershed Management Plan that are benefits to the SAMP. They include characterizing the watershed and assessing problems, development of strategies to protect, enhance, and restore natural resources and monitoring effectiveness of actions implemented over time.

Other components beneficial to the SAMP include characterization of the watershed. This includes identification of opportunities and constraints analysis for each sub-basin including baseline information assessing geology, soils, vegetation, sensitive species habitats, aquatic resource distribution and condition, current and planned land uses, local protective measures and ordinances.

Additional components beneficial to the SAMP are strategies to Protect, Enhance, Restore, and Manage Watershed Resources, Sub-basin specific Best Management Practices to protect aquatic resources and a foundation for developing and evaluating project alternatives

The Otay Watershed Management Plan also includes Strategies to protect, enhance, restore, and/or manage watershed resources. Several may be implemented by the SAMP including those to eradicate Non-Native Flora and Fauna and prevent re-infestation, implementing setbacks or buffers around aquatic resources for new development, protecting, enhancing and restoring habitat linkages, restoring the Lower Otay River Floodplain, and restoring Urban Creeks.

Components of the SAMP are as follows:

Technical Studies carried out by the Corps of Engineers including Corps planning level delineation and Corps riparian ecosystem functional assessment.

Identification of the Overall Project Purpose

Development and analysis of alternatives (NEPA, §404(b)(1) Guidelines, CEQA)
Preparation of a Special Area Management Plan which may include a Mitigation,
Monitoring, and Management Plan

Completion of NEPA/CEQA Review

Obtaining 404(b)(1) Permits including regional and programmatic permits

The SAMP process requires the evaluation of a series of Alternatives. These Alternatives are more varied and rigorous than most typical alternatives designed to conform to CEQA. They range as follows:

- Alternatives with future land uses determined by existing GPs and by expected GP Updates
- Alternatives that analyze a traditional approach to conservation
- Alternatives that analyze a watershed approach to conservation which may include focused preservation, enhancement and creation
- Alternatives that maximize open space
- Alternatives that avoid specific aquatic resources
- Alternatives that may combine these approaches

Potential No-SAMP Alternatives are also analyzed as follows:

- No Action: No SAMP would be developed and permitting would continue on a project-by-project basis
- No Federal Action/Full Realization of General Plans: Densities may need to increase in the uplands to avoid impacts to jurisdictional resources. No permits would be issued for the watershed
- No Federal Action/Partial Realization of General Plans: Land uses may be reduced/modified to avoid impacts to jurisdictional resources. No permits would be issued

Another component of the plan is the development of initial pieces of a Mitigation Monitoring Management Plan. Mitigation Monitoring Management Plans integrate recommendations from the WMP which may include BMPs and aquatic resource buffers. They also identify areas suitable for preservation, restoration or creation of wetland habitats. They also include developing Mitigation and Monitoring Guidelines for Aquatic Resources.

The next steps are as follows:

- NEPA Scoping Meeting

- Completion of the 404(b)(1) Analysis
- Preparation of the SAMP
- Preparation of the EIS

Public Questions and Comments

Jim Peugh raised concerns this entire program is directed toward streamlining permit processing. He also stated that degraded wetlands need to be preserved and restored because we have already lost so many wetland resources. Restoration opportunities need to be emphasized more. He would like to see net improvements over time.

Jae Chung answered that specific policy promotes that net gain in wetland habitats is the goal.

The question was asked regarding whether there will be a decision matrix for determining low and high values.

Jae Chung answered that is where the group comes into play.

The question was asked regarding if there will be consideration to now allow permits in some high value resource areas.

The response was that the intent is that high value resource areas would be protected. There will be strong coordination with other jurisdictions within the watershed including Imperial Beach, San Diego and Chula Vista. From the standpoint of the County, the San Diego County Resource Protection Ordinance requires protection of wetlands.

Vicky Touchstone discussed the topic of alternatives in the way that the plans are written and alternative approaches to conservation.

Mike McCoy raised the issue of whether or not there will be incentives for concentration of urban development and reduces incentives for sprawl and encourages more effective wildlife corridors to be more effective.

Shawn Zovod mentioned the effect of land uses and the potential to evaluate incentive programs to encourage development in the more urbanized areas. The land use and alternative analysis identifies how the plan may play out. It was also discussed that the City of Chula Vista recently adopted a General Plan. There would likely be less consideration for modification of a relatively recent General Plan. The County is also currently working on a General Plan revision and the opportunity to provide input into it exists now.

Jack Bransford asked “How much land is already preserved?”

The response was 54%.

Vicky Touchstone: Enhancement, How do you determine enhancement areas and No Net Loss? Need to identify what is important and what is not. Enhancement is not No Net loss and direct count.

This is a prototype plan because so much has already been protected.

Christina Arias asked in terms of wetlands, how have other SAMPS played out. The idea is for a net gain. Have other SAMPS shown to be better than permit by permit? Do we have data that SAMPS are better?

The response was that permit by permit review is failing for protecting water resources. The existing process may meet goal of “no-net-loss” but it is not good for functions and values.

There need to be incentives to avoid resources.

Response is that the SAMP provides incentives to avoid resources.

Can SAMP exceed 404 mitigation measures?

Response is that it has the ability to do it.

Shawn Zovod indicated that with a SAMP you look at the watershed before you need mitigation so that the mitigation will be planned rather than evaluated individually while attempting to form a viable wetland habitat complex. CEQA and NEPA will still be implemented for individual projects.

Jim Peugh stated that the MSCP says impacts to wetlands will be avoided, but an environmentally superior alternative allows wetland impacts? There needs to be a net gain. He also indicated that Section 404 is not being implemented now.

Jae Chung responded that the SAMP allows more effective implementation. Currently, the implementation is the back end. Some has failed in the past. Adoption of management in the SAMP would address part of that concern. It was stated that the public needs to be involved so they will have personal feelings of ownership to enforce it.

The issue was raised that restoration programs may be very expensive and the process to obtain permits for restoration is very expensive and difficult.

The response is that under the SAMP, there would be a desire to make the process for performing restoration easier.

Discussion of dates for future meetings indicated that later in the month is better than earlier, but that notification will come out later.